III. REMARKS

The Examiner is requested to reconsider the application in view of the foregoing amendment, to tidy up the claims, and the following remarks. It is believed that no new matter has been added.

In the Office Action, the lack of unity requirement has been made. Applicant maintains that lack of unity has not been shown.

In the Office Action, at Paragraph 3, claim 10 has been rejected pursuant to 35 U.S.C. Sec. 101. The Examiner contends that the invention is directed to non-statutory subject matter.

In response, the rejection is respectfully traversed as improper and defective for noncompliance with 35 U.S.C. Sec. 132. In the Office Action, the Examiner contends, at page 6, that "the steps can be carried out without the use of another statutory class, it is considered a non-statutory process." The claim recites evaluating the trigger with a computer accessing further data.

Pursuant to 35 U.S.C. Sec. 132, Applicant is entitled to "the reasons for such requirement … *together with such information as may be useful in judging the propriety of continuing prosecution*…". A similar requirement is made by Rule 104(a)(2), which requires "…reasons for any… requirement… and such information or references will be given as may be useful in aiding the applicant… to judge the propriety of continuing the prosecution.

In view of Sec. 132 and Rule 104, for a proper rejection, the Examiner is required to provide "information" as to how one might be evaluating the trigger with a computer accessing further data "without the use of another statutory class" as contended. It would seem that a computer is an apparatus. The rejection is therefore is defective for failing to make out a prima facie case of unpatentability.

In the Office Action at Paragraphs 5-6, claims 1 through 16 have been rejected pursuant to 35 U.S.C. Sec. 103. The Examiner contends that these claims are obvious over Cristofich in view of Mortgage-X, for reasons most precisely stated in the Office Action.

In response, the rejection is respectfully traversed and reconsideration is requested. First, Applicant does not concede that Mortgage-X is prior art.

Second, the rejection is defective for failing to make out a prima facie case of unpatentability because:

(1) the applied art fails to disclose expressly claimed elements or limitations;

(2) the rejection fails to consider the expressly claimed rejection as a whole;

(3) the contended combination of teachings to reach the claimed invention would change the principles of operation of the devices shown in the respective cited art;

(4) no motivation or suggestion has been shown in the cited art that, as of the date of the instant application, would have prompted one skilled in the art to make the combination or modification to reach the claimed invention;

(5) the art teaches away from the claimed invention; and

(6) no reasonable expectation of success has been established for making the proposed modification or combination;

For any and all of these reasons, the PTO has not shown *prima facie* obviousness.

As per (1) the applied art fails to disclose expressly claimed elements or limitations, there is no teaching or suggestion in the cited art <u>an option on a loan</u>. At page 7 of the Office Action, the Examiner concedes that "Cristofiche fails to teach that the option is an option on a loan." The Examiner also concedes that Mortgage-X does not use the phrase "option on a loan" as more precisely stated at Page 7. Instead, the Examiner contends that a lock-in is an option on a loan.

Respectfully, this makes no sense whatsoever. There is no option with a lock in, which is why they call it a "lock in". The contention is believed to be false, and Mortgage-X states at page 1 that "A lock-in, also called a rate-lock or rate commitment, is a lenter's promise to hold a certain interest rate and points for you…." Examiner is required to provide evidence or his affidavit or declaration that "the mortgage rate lock-ins desribed by Mortgage-X are analogous to what one of ordinary skill in the art would consider to be an 'option on a loan.'" The Office Action is defective for failing to set out a case of prima facie obviousness because the applied art fails to disclose expressly claimed elements or limitations.

Items (2)-(6) follow from the discussion of (1) above.

With respect to the present application, the Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer, if any, and the prior art that it was made to avoid, may need to be revisited. Nor should a disclaimer, if any, in the present application be read back into any predecessor or related application.

APPLICANT CLAIMS SMALL ENTITY STATUS. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: August 14, 2009

Peter K. Trzyna
(Reg. No. 32,601)
(Customer No. 28710)

P.O. Box 7131
Chicago, IL 60680-7131
(312) 240-0824